

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NORTH CAROLINA

U.S.A. vs. Benny Edward Ogundeji

Docket No. 7:10-CR-90-1H

Petition for Action on Supervised Release

COMES NOW David W. Leake, U.S. Probation Officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Benny Edward Ogundeji, who upon an earlier plea of guilty to Felon in Possession of a Firearm and Ammunition, 18 U.S.C. § 922(g)(1) and 924, was sentenced by the Honorable Malcolm J. Howard, Senior U.S. District Judge, on June 14, 2011, to the custody of the Bureau of Prisons for a term of 46 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for a period of 36 months.

Benny Edward Ogundeji was released from custody on November 10, 2014, at which time the term of supervised release commenced.

A Violation Report was submitted on June 29, 2015, advising the court that the defendant was charged with a DWI in New Hanover County on May 8, 2015. The court approved for the violation to be held in abeyance as the defendant would be supervised under a higher level of monitoring.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

On February 23, 2016, the defendant was convicted of the DWI that was pending in New Hanover County. He was placed on 12 months of unsupervised probation and ordered to pay \$810 in court costs. Additionally, following a single vehicle accident on May 30, 2016, in Pender County, the defendant was charged with Operate a Vehicle Without Insurance and Possess Open Container of Alcohol in Passenger Area (16CR465), DWI and Failure to Report an Accident (16CR50960), DWLR Not Impaired and Reckless Driving Wanton Disregard (16CR50961), and Failure to Maintain Lane Control and Exceeding Posted Speed (16IF701123). Ogundeji was confronted about the charges from May 30, 2016. While he is adamant that he was not the driver of the vehicle, he confessed that he was intoxicated in the passenger's seat and that the driver of the vehicle is a convicted felon whom he met in prison. The arresting officer confirmed that there were no eye witnesses to the accident. Additionally, the other individual in the vehicle informed the undersigned officer that the defendant was not driving the vehicle on May 30, 2016, when the accident occurred. Finally, it is noted that the defendant failed to report for the Surprise Urinalysis Program (SUP) between March 2016 and June 2016. To his credit, the defendant has consistently maintained employment, and is highly valued by his employer.

To address the DWI conviction from February 23, 2016, a 2-day jail term to be arranged by the Bureau of Prisons is recommended. Additionally, the defendant reported for an assessment at Coastal Horizons in Wilmington on July 5, 2016, and substance abuse counseling was recommended. Therefore, based upon his admission to drinking to intoxication, his association with a convicted felon, and his failure to report for SUP as directed, it is recommended that the defendant participate substance abuse counseling with a cognitive behavioral component. Given the nature of the new charges, it is recommended that no further action be taken pending adjudication, and that the defendant be afforded the opportunity to improve his decision making ability through participation in substance abuse counseling. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

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PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall be confined in the custody of the Bureau of Prisons for a period of 2 days, as arranged by the probation office and shall abide by all rules and regulations of the designated facility.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

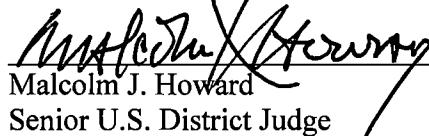
I declare under penalty of perjury that the foregoing
is true and correct.

/s/ Robert L. Thornton
Robert L. Thornton
Supervising U.S. Probation Officer

/s/ David W. Leake
David W. Leake
U.S. Probation Officer
2 Princess Street, Suite 308
Wilmington, NC 28401-3958
Phone: 910-679-2045
Executed On: August 05, 2016

ORDER OF THE COURT

Considered and ordered this 8th day of Aug, 2016, and ordered filed and
made a part of the records in the above case.


Malcolm J. Howard
Senior U.S. District Judge